

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 2, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Sini, Olvany and Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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Chairman Cameron called the meeting to order at 8 P.M. and read the following agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Coastal Site Plan Review #184-A, Flood Damage Prevention Application #195-A, Land Filling & Regrading Application #102-A, Town of Darien, 36 and 30 Goodwives River Road, and 11 Queens Lane.** Proposing to repair the Upper Pond dam; construct a fish ladder; remove approximately 9,000 cubic yards of sediment; restore aquatic and shoreline habitats of the Upper Pond; and perform related activities within regulated areas. The subject properties are located on the Goodwives River and: at 36 Goodwives River Road (Map #63, Lot #105); 30 Goodwives River Road (Map #63, Lot #104); and 11 Queens Lane (Map #63 Lot #99), approximately 800 feet south of its intersection with Old King's Highway South, in the R-1 Zone. ***THIS APPLICATION WAS WITHDRAWN ON AUGUST 14, 2014.***

Chairman Cameron said that this application had been withdrawn on August 14, 2014. She then read the following agenda item:

**GENERAL MEETING**

**Amendment of Coastal Site Plan Review #252-A, Land Filling & Regrading Application #278, Hans Mende, 253 Long Neck Point Road.**

Request to amend previously approved plans relative to the height of the house.

Attorney Wilder Gleason said that the property is subject to a private Deed Restriction that limits the height of the building far below that which is normally permitted in the R-1 residential zone. The original structure was designed to comply with the height limitation, but during the engineering of the final architectural plans, it was noted that compliance with the Deed Restriction would result in very low, internal ceiling heights. They have obtained consent from the neighboring property owner, the beneficiaries of the Deed Restriction, to increase the building height from 32.5 feet to 34.5 feet above NAVD 1988 Elevation 0.

Mrs. Cameron noted that she had reviewed the materials and that the sign-off from the neighbor is not without restriction. She felt that it would be appropriate to have a public hearing before the Planning & Zoning Commission amends the plan. Mr. Gleason said that Mr. Mende has agreed to the restriction of the neighbor regarding the reinstatement of the permission to park on the Mende property.

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Fred Allen, Construction Supervisor at the site, said that it is clear that the neighbor has authorized a two foot increase in the building height. Mr. Olvany noted that the document submitted to the Commission is not signed by Mr. Mende. Mr. Gleason said that he is confident that Mr. Mende has agreed to all the terms of support by the neighbor and that he can obtain a signed copy and submit it to the Commission. The Commission decided that they will not act on this matter until next week after the signed copy of the Agreement has been submitted.

Chairman Cameron read the following agenda item:

**Amendment of Coastal Site Plan Review #292, Land Filling & Regrading Application #312, Mark Blackman, 99 Long Neck Point Road.**

Request to construct therapy pool.

Kent Eppley represented the Blackmans and reviewed the letter and photographs that had been submitted. He explained that the construction will involve a small pool that has a built-in current so that it can be used for continuous exercising.

Commission members discussed the proposal and concluded that it would not have any adverse impacts on coastal resources or neighboring property owners. They felt that it was not necessary to conduct a public hearing regarding this modification. The following motion was made: that the Commission grant the requested modification of the Coastal Site Plan Review and Filling and Regrading Permit for the installation of a small pool on the east side of the residence in accordance with the submitted plans and materials. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron then read the following agenda item:

**Coastal Site Plan Review #156-B, Flood Damage Prevention Application #268-A, Land Filling & Regrading Application #282, Contientminto, 12 Shennamere Road.**

Request to amend previously approved plans relative to: revised pool cabana structure layout; new swimming pool added, revised upper driveway outline across from garage; added drainage around pool cabana.

Todd Ritchie, Professional Engineer from GHD Associates, explained that the site plan and construction drawings had been modified a number of times, but the Commission has not yet reviewed and approved all of those changes. He reviewed his August 5, 2014 letter that discusses revisions 5, 6 and 7. The revision dated 7/9/13 modifies the cabana and the outdoor shower area. The revision of 11/8/13 revises the swimming pool and the driveway near the garage. The revision number 7 dated 5/7/14 adds drainage facilities around the swimming pool. The proposed revision number 8 which creates a window well for egress from the basement area underneath the cabana and the propane tank to be located underground west of the cabana.

The architect explained that the window well is necessary to comply with Building Code requirements.

Mr. Ritchie said that storm water drainage is directed into the driveway drain system and then into the underground galleries.

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Commission members reviewed the revised plans and letters. The following motion was made: that the Commission approve the requested modifications of the Coastal Site Plan and Land Filling and Regrading application in accordance with the submitted plans and materials. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron then read the following agenda item:

**Amendment of Coastal Site Plan Review #162-A, Flood Damage Prevention Application #246-A, Land Filling & Regrading Application #292, Neil Foster/Janet Eick, 35 Plymouth Road.**

Request to amend previously approved plans by installing an underground propane tank and installing walls beneath the perimeter of the elevated deck.

Carl Nelson, building contractor, explained that two modifications are being requested. The first is the installation of an underground propane tank to be located in the front yard. Because it is located in the flood zone, it will need to be properly anchored into the ground so that it will not become buoyant during a flood condition. Since it will be buried, it does not need to comply with the front yard setback requirements. It is proposed to the northwest of the driveway and turnaround area. It will require slight regrading in order to have it properly covered. The regrading is in the flood zone, but it is not near the regulated inland or tidal wetlands.

The second modification is to partially enclose the area underneath the porch and deck and part of the residence. The original plan was to have lattice enclosure in that area, but the owners now want to have breakaway walls or hinged walls so that the area can more effectively be used for storage. Most of the walls do not reach down to the ground, but in the location where the walls will reach down to the ground, there will be flood vents installed in the access door so that flood waters will be allowed to pass through the area rather than the structure resisting the force of the flood waters.

Commission members reviewed the requested modifications. The following motion was made: that the Commission approve the requested modifications to the propane tank and the enclosure underneath the porch in the eastern part of the structure in accordance with the submitted drawings and plans. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron then read the following agenda item:

**Moon Chun, 156-166 Heights Road, DC Zone.**

Determination on whether a law office would comply with Section 634e of the Zoning Regulations.

Mr. Ginsberg reviewed the materials that he had submitted in the Commission members' packets. The property is in the Design Commercial Zone that does not allow business and professional offices on the ground floor, but does allow some specialized office uses on the ground floor in accordance with an amendment that was adopted by the Commission years ago.

Mrs. Cameron noted that the parking on the site would not be adversely affected by the proposed law office on the ground floor and that it would be important to keep the windows of the law office functioning as windows rather than have the area walled in. She said the preference of the Commission would be to have a simple, retail use on the ground floor of the buildings, but the language of the amendment to Subsection 634e adopted by the previous Commission in February 1991

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would appear to be broad enough to allow a law office on the ground floor subject to a Special Permit application to and approval by the Commission. All the other Commission members agreed.

Mr. Ginsberg said that he will work with Mr. Chun on the submission of the application and schedule a public hearing. It was noted that by making this determination, the Commission has not approved an office use on the site at this time. An office use will require submission of the application to the Commission.

Chairman Cameron read the following agenda item:

**Discussion and deliberation and possible decision on the following matters:**

**Coastal Site Plan Review #272-B, Flood Damage Prevention Application #342, Land Filling & Regrading Application #273-B, Mitch & Jody Truwit, 123 Five Mile River Road.** Proposing to raze the existing residence and garage and construct one new single-family residence and in-ground pool; install associated retaining walls; abandon the existing septic system and tie into existing public sewer; and perform related site development activities within regulated areas.

Commission members discussed the draft Resolution that was distributed for review and discussion. Several minor modifications/clarifications were agreed upon. One of the issues was the large tree which is to be preserved. It was noted that the Coastal Area Management Regulations allows the Commission to require protection of natural features such as this large tree.

The following motion was made: that the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 2, 2014**

Application Number: Coastal Site Plan Review #272-B  
Flood Damage Prevention Application #342  
Land Filling & Regrading Application #273-B

Street Address: 123 Five Mile River Road  
Map #67 as Lot #2

Name and Address of:  
Property Owners: Mitch & Jody Truwit  
123 Five Mile River Road  
Darien, CT 06820

Name and Address of Applicant: Andy Glazer  
189 Rowayton Avenue  
Rowayton, CT 06853

Name and Address of Andy Soumelidis

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Applicant's Representative: Landtech  
31 Franklin Street  
Westport, CT 06880

Activity Being Applied For: Proposing to raze the existing residence and garage and construct one new single-family residence and in-ground pool; install associated retaining walls; abandon the existing septic system and tie into existing public sewer; and perform related site development activities within regulated areas.

Property Location: The subject property is located on the south and east side of Five Mile River Road approximately 700 feet south of its intersection with Davis Lane.

Zone: R-1/2

Date of Public Hearing: July 8, 2014 continued to July 29, 2014 and August 4, 2014

Time and Place: 8:00 P.M. Room 206 (July 8 and 29) and Auditorium (Aug 4) Town Hall

Publication of Hearing Notices

Dates: June 27 & July 4, 2014

Newspaper: Darien News

Date of Action: September 2, 2014

Action: GRANTED WITH STIPULATIONS  
AND MODIFICATIONS

Scheduled Date of Publication of Action:  
September 12, 2014

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to raze the existing residence and garage and construct one new single-family residence and in-ground pool; install associated retaining walls; abandon the existing septic system and tie into existing public sewer; and perform related site development activities within regulated areas. The subject property is now served by an on-site septic system. As part

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of this application, the proposed new residence will abandon the existing on-site septic system, and connect to the public sewer system. The proposed house will be constructed outside of the flood zone.

2. A prior application for this property (then owned by the Richards) was submitted to the Planning and Zoning Commission in 2013. That application proposed to subdivide the property into two building lots and construct two single-family residences on the subject 1.118+/- acre property. It was strongly opposed by neighbors. That application was withdrawn before a decision was made by the Commission. The Commission is reviewing this subject application on its own merits.
3. The Environmental Protection Commission (EPC) approved this project on July 9, 2014 as part of EPC #15-2014. That approval is hereby incorporated by reference. The EPC, in their role as Conservation Commission, then sent a subsequent July 17, 2014 memo to the Planning and Zoning Commission. The last paragraph of that memo refers to the 46" oak tree on site. The final sentence of the memo reads, "The EPC recommends the P&Z Commission consider requiring protection of the tree, if possible."
4. The current property has a large hill and the plan is to remove the existing house and then build a new residence. One concern with the prior plan from 2013 was the cliff and rock outcropping and trees at the north end of the site. The proposed design will preserve that area and new evergreen trees will be planted in that vicinity. Another big difference between the two plans (the subject application and the Richards 2013 application) is the likelihood and amount of blasting to accommodate the removal of rock. Mr. Glazer, the applicant, estimated that the previous plan would have involved 8,000 cubic yards of material to be removed from the site. He said in this case, they have carefully designed the proposed house and garage to minimize rock removal. This design anticipates the removal of approximately 500 cubic yards of rock material. He said rather than using a large and loud hoe ram to chip at the solid rock to be removed, they would drill and blast the rock that needs to be removed. He said this entire blasting process will take approximately 15 to 20 smaller blasts and would take about two weeks to remove the rock itself. Much of the rock to be blasted will be reused on the site in order to construct the retaining walls.
5. Mr. Glazer said that another concern of the neighbors has been the water runoff and how the stormwater can be managed to avoid impacting the coastal resources in and adjacent to Five Mile River. He said that the proposed design is to channel much of the stormwater runoff into a rain garden to be created on the uphill side of the existing seawall. He said that he met with officials from the Connecticut Department of Energy & Environmental Protection (CT DEEP) at the site and they suggested that the existing seawall be untouched and that a new retaining wall be constructed approximately four feet up hill from the existing wall. Then the rain garden would be supported by the new wall rather than the old seawall.
6. Mr. Romano said that the stormwater management plan is to achieve water quality rather than to hold back large volumes of water. Water quality standards will be met by allowing the first inch of rain fall to be cleansed before it is discharged into the adjacent Five Mile River. He said another aspect of the plan is to reduce the amount of rainwater that would travel down the driveway and then into the River without water quality treatment.

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7. At the August 4 public hearing, discussion occurred regarding the tree shown as a 46" diameter oak on the submitted Zoning Location and Topographic Survey. The tree is to the northeast of the proposed residence. In support of the removal, the applicant submitted a letter from an arborist. Photographs were submitted for the record showing the location of the tree. The EPC recommends preservation of this large tree and the Planning and Zoning Commission believes that the tree, with proper protection during construction, can be saved.
8. Mike Aurelia, the environmental consultant hired by the Town to review the plans, submitted comments dated 6/25/14. They included concerns about the rain garden design, the preservation of the existing walls near the Five Mile River, and the possible pier or dock structure which will need approval from CT DEEP. A response from Landtech dated July 1, 2014 addressed Mr. Aurelia's concerns.
9. Joe Canas, Professional Engineer of Tighe & Bond, is the environmental consultant hired by the Town to review the plans. His comments were submitted in June 23, July 8 and July 30, 2014 letters to the Commission. He said that any retaining wall over three feet in height does require engineering certification regarding its structural design and implementation. Any such wall will require a building permit. Mr. Canas noted in his July 30, 2014 letter that the revised plans address all of his concerns.
10. The site is within the Coastal Boundary established within 1000 feet of mean high water of Long Island Sound and its tidal influenced waters. The Commission finds that, if properly implemented, the proposed work will not have any adverse impacts on coastal resources.
11. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
12. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
13. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
14. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
15. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
16. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined

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herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #272-B, Flood Damage Prevention Application #342, Land Filling & Regrading Application #273-B are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

A. Work shall be in accordance with the following plans, as required to be modified herein, entitled:

- Proposed Site Improvements for A Single Family Residence Site Development Plan, by Landtech, 123 Five Mile River Road, last revised 7/24/14, Sheet C-1.
- Proposed Site Improvements for A Single Family Residence Site Preparation Plan, by Landtech, 123 Five Mile River Road, last revised 7/24/14, Sheet C-2.
- Truwit Residence 123 Five Mile River Road, Glazer Construction, dated 19 May 2014, Drawing No. A1.01 through A1.03; A2.01 through A2.03.

(Sheet C-2 of the Plans shall be revised to remove the note relating to the 46" oak: "Tree to be removed per arborist's recommendation" and shall instead indicate that the tree is to be preserved and that proper protections shall be implemented throughout the development process to assure that the tree is not impacted by regrading, construction or other activities).

B. The Commission notes that this site has significant frontage along the Five Mile River. During the public hearing process, testimony was received both in oral and written form regarding the coastal resources on and adjacent to the site. Two important aspects of this application are the preservation of the area generally north of the proposed house; and the preservation of the 46" oak tree. The document entitled, "Preventing Construction Damage to Trees" was submitted for the record. Additional tree protection shall be shown on revised plans (both Sheet C-1 and C-2) near this tree in order to preserve it to the greatest extent possible during the construction process. If the tree becomes damaged or dead, the Planning and Zoning Department staff may review and authorize the removal of the 46" oak. If the applicant or property owner desires to remove said tree in the future, they will need to return to the Planning & Zoning Commission for formal review and action.

C. The revised plans dated 7/24/14 show "proposed lawn between walls" between the existing sea wall and the proposed four foot high retaining wall four feet behind it. The prior plans, with a revision date of 7/1/2014, which were approved by the EPC, show "proposed landscaping between walls." The Commission hereby requires that Sheet C-1 of the plans be revised to replace the note "proposed lawn between walls" with "proposed landscaping between walls." The landscape shall not include lawn, but shall include shrubs and ground cover vegetation that is tolerant of the waterfront environment and are low maintenance. The reason for this is two-fold: first, landscaping in this area can help minimize the visual impact of the upper four-foot high wall, and create a more natural-looking coastal area. Second, is that there is no real practical way to maintain lawn in this area other than pushing a lawn mower down a flight of stairs or through the rain garden, neither or which is logical.

D. Because of the nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.



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- E. Because the retaining walls are proposed to establish a fill platform, and if those walls fail, the Five Mile River could be impacted, the proposed retaining walls shall require engineering certification. The July 1, 2014 letter from Landtech notes that "A structural engineer will design the proposed wall and analyze the existing sea wall". A July 30, 2014 letter from Mr. Canas notes that "it is our understanding that design elements for the modified and proposed retaining walls will be finalized prior to applying for a building permit for these structures." That design and analysis shall be submitted with the Zoning and Building Permit application for either the house foundation only, or the house above the foundation. However, the permit which includes the new retaining wall shall be submitted and approved prior to that work on the new four foot high retaining wall being commenced.
- F. A rain garden has been proposed to address water quality issues, as the subject property is adjacent to the Five Mile River. The current plans show that the rain garden would be supported by the existing seawall to the northeast of the proposed house. Per the recommendation of DEEP, the rain garden will need to be relocated and a new support wall will need to be installed so that the existing seawall will not be relied upon to provide the structural support for the rain garden. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit for the house foundation. This will alert future property owners of the presence of the on-site stormwater management. Also note that the proposed swimming pool on the south portion of the property will meet the minimum 10 foot setback for a detached accessory structure, but the plans need to clarify that any patio or terrace in that area must be at least 8 feet from the property line as required by Section 361 of the Zoning Regulations.
- G. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans (both C-1 and C-2) and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized. No construction access is proposed for the private part of Five Mile River Road or shown on the submitted plans, and none is hereby approved.
- H. The Construction Sequence on Sheet C-2 of the plans shall be revised as follows:
- note that the pool and its associated retaining walls shall require separate Zoning and Building Permits from the residence;
  - if the applicant is applying for a Zoning and Building Permit for the house foundation only, then the house foundation work shall be spelled out distinctly in the Construction Sequence.
  - demolition of the house is shown as step 8. The Construction Sequence shall be modified to reflect when that demolition will occur.
  - Step 4 "Install the mud tracking bed at the end of the existing driveway to remain" shall be clarified. Will it be at the end of the driveway as shown at the bottom of page C-2, or in the location shown on the plan in the middle of the driveway? It shall remain there throughout the entire construction process.

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- I. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- J. Prior to the issuance of a Certificate of Occupancy (CO) for the residence, the applicant's engineer or surveyor shall prepare an as-built survey of the topography on the property, showing one foot contours and sufficient spot elevations to verify that the finished grading is in compliance with this approval. A Professional Engineer shall submit certification that the required drainage and site grading has been properly implemented per the approved plans prior to the issuance of a Certificate of Occupancy of the residence.
- K. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The house construction will require a Zoning and Building Permit, and the proposed pool will require a separate Zoning and Building Permit. A Blasting Permit will be required from the Fire Marshal. If blasting is done, a pre-blast survey shall be completed. The Commission notes that approval from the Health Department will be needed to abandon the existing septic system. A Sewer Connection Permit will be needed from Sewer Services for the new residence.
- L. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- M. This permit shall be subject to the provisions of Sections 815, 829f, and 1009 of the Darien Zoning Regulations, including but not limited to, submission of certification and an as-built survey for the land filling and regrading aspects of the project, as prepared by a licensed land surveyor, and it shall show the final finished grades with one foot contours and sufficient spot elevations to verify that the finished grading is in compliance with this permit. Implementation and completion of the approved plans for site work, and regrading shall be within one year of this action (by September 2, 2015). This may be extended as per Sections 815, 829f, and 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Chairman Cameron read the following agenda item:

**Coastal Site Plan Review #300, Flood Damage Prevention Application #341, Land Filling & Regrading Application #329, 145 NWL, LLC, 145 Nearwater Lane.** Proposing to raze the existing residence, pool, and construct a new single-family residence and pool with associated stormwater management and perform related site development activities within regulated areas.

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Commission members reviewed the draft Resolution and noted that there was an issue about the possibility of a basement. The draft Resolution notes that this must be clarified by the applicant. If there is a basement proposed, the entire structure must be located outside the flood zone. This will require a slight modification of the site plan. If it is not a basement, then it must be properly labeled and constructed within the flood hazard zone. The applicant will need to provide additional information to clarify this matter.

After further discussion, the following motion was made: that the Commission adopt the following Resolution to approve the project, subject to the condition and stipulation as noted. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 2, 2014**

Application Number: Coastal Site Plan Review #300  
Flood Damage Prevention Application #341  
Land Filling & Regrading Application #329

Street Address: 145 Nearwater Lane  
Map #56 as Lot #24

Name and Address of Applicant &: 145 NWL, LLC  
Property Owner: c/o Law Office of Bruce Hill, LLC  
30 Old Kings Highway South  
PO Box 1103  
Darien, CT 06820

Name and Address of:  
Applicant's Representative: D. Bruce Hill, Esq.  
Law Office of Bruce Hill, LLC  
30 Old Kings Highway South  
PO Box 1103  
Darien, CT 06820

Activity Being Applied For: Proposing to raze the existing residence, pool, and construct a new single-family residence and pool with associated stormwater management and perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Nearwater Lane approximately 500 feet north of its intersection with Brush Island Road.

Zone: R-1

Date of Public Hearing: July 8, 2014 continued to July 29, 2014 and August 4, 2014

Time and Place: 8:00 P.M. Room 206 (July 8 and 29) and Auditorium (Aug. 4) Town Hall

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Publication of Hearing Notices

Dates: June 27 & July 4, 2014

Newspaper: Darien News

Date of Action: September 2, 2014

Action: GRANTED WITH STIPULATIONS  
AND MODIFICATIONS

Scheduled Date of Publication of Action:  
September 12, 2014

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to raze the existing residence, pool, and construct a new single-family residence and pool with associated stormwater management and perform related site development activities within regulated areas. The subject property is 2.191+/- acres, and is on the west side of Nearwater Lane. The property is accessed via a twenty foot right-of-way from Nearwater Lane. Because the property does not have frontage, all building setbacks are forty feet.
2. The existing house does not comply with front or side yard setbacks. It also was constructed prior to the establishment of flood regulations in Darien. It is currently non-conforming relative to the flood regulations, as its first floor is below the flood elevation.
3. One highly unusual feature of this application is the man-made pond which is essentially in the middle of the property. At the public hearing, the Commission heard testimony that the prior owner had significantly changed the grades on the property through the years, beginning in the 1960s. A unique circumstance is the construction of a man-made pond adjacent to the house. Clear photographic and other documented evidence was presented to document that the pond is man-made.
4. The Environmental Protection Commission (EPC) approved the proposed filling of the man-made pond and the related site work to allow the development to proceed as proposed. They took that action on July 9, 2014 as part of EPC #9-2014. That approval is hereby incorporated by reference. The EPC also sent a July 17, 2014 memo in its role as a Conservation Commission. The Zoning Board of Appeals (ZBA) granted a variance on June 25, 2014 as part

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of ZBA Calendar #20-2014, however, as explained in the conditions of approval herein, that variance will become moot and not necessary.

#### WORK IN THE FLOOD ZONE

5. The subject property has an existing house that is located close to the east side of the site and is located in the Flood Hazard Zone. There is a man-made pond with much stone work that has been built over the past 50 or so years. The proposal is to knock down the existing house, fill in the pond, remove much of the stonework, regrade the property and build a replacement house, which complies with the flood regulations.
6. The applicant's survey reflects the flood zone boundaries as depicted on the July 8, 2013 Flood Insurance Rate Map. They require a flood permit because the house will still be in the flood zone but will be elevated above the flood level. Coastal area management approval is required because the work is adjacent to Holly Pond. A Land Filling and Regrading Application permit is required because they need to reshape the property to eliminate the man-made pond and accommodate the proposed development.
7. The existing flood elevation in the area is 14 feet above NAVD 1988 Elevation 0. The proposed house has been designed to have the first floor at or above elevation 15 so that it complies with the Town's requirement that the lowest floor be at least one foot above the flood elevation. Some of the design plans indicate a basement area that will be used for storage and that basement will be below elevation 14. The architectural drawings do not illustrate or note a basement. A basement is not permitted in the flood zone. See Stipulation B regarding the required changes to the plans related to a possible basement. All mechanical units will be at or above elevation 14.0.

#### STORMWATER MANAGEMENT

8. The roof and driveway runoff would be directed into a rain garden area to the north of the proposed house. The area needs to be excavated to accommodate the rain garden. The pool patio area will drain toward an underground drainage system. Stormwater runoff will be cleansed before it is discharged into Holly Pond to address water quality. The plans do not show detaining of stormwater runoff as would be necessary for a property that is located farther inland. This property is directly adjacent to Holly Pond, thus only water quality is addressed.

#### NATURAL ENVIRONMENT

9. As part of this application, there is a mitigation plan for the areas around Holly Pond. There are some large oak and hickory trees around the perimeter of the property and adjacent to the pond. There is much overgrowth of honeysuckle, bittersweet, Japanese knotweed and some phragmites. These are invasive species that need to be removed. The application includes natural plantings on the southwest side and north point adjacent to Holly Pond, and a walking access path to and near the pond.

#### GRADING ISSUES

10. Jeffrey McDougal, Land Surveyor from William W. Seymour Associates, explained at the public hearing that the pond on the property was man-made over 40 years ago. The 1953 ground elevations can be documented prior to the excavation for the pond. He said that the top of the banks around the pond seem to be the original grade level before the pond was dug out. He said that using Elevation 9.0 as the average grade level makes sense.

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11. The proposed filling and regrading is still subject to the Special Permit proceedings of the Planning & Zoning Commission. Determining the grade from which to measure the building height needs to be clarified by the Commission, since the house is proposed for the area on which there is now the man-made pool. The applicant asked for approval to allow ground elevation 9.0 to be the point from which the building height is measured. This would result in the building height of the proposed structure to be in compliance with the 30 foot maximum allowed by the Regulations. This also allows the structure to be constructed above the expected flood elevation.
12. At the public hearing, the applicant's surveyor displayed drawings and illustrations that had been shown to the Zoning Board of Appeals (ZBA). While the ZBA did approve a variance, it struggled with the grade elevation because, at that time, neither the EPC nor Planning & Zoning Commission had approved the filling of the pond and associated regrading. The ZBA determination of grade elevation did not account for the filling and regrading and would not allow the house to be constructed as proposed, as it would result in a house which does not meet the Building Height maximum.
13. The pond excavation apparently started in the late 1960s. It was noted that, if the permits to fill the pond were granted and the pond were filled in and the site was left vacant for five years (or other substantial period of time), there would be no debate about the existing average grade level. In this case, rather than waiting five years after filling in the pond, they want the existing ground level to reflect the fact that the pond is to be filled in rather than trying to use the existing ground levels which would be much lower.
14. At the public hearing, the applicant's architect, Phil Hubbard of PH Architects, reviewed the architectural plans of the proposed building. It was noted that the proposed house is less than the 30 foot maximum building height allowed. The submitted elevation plans show that if the average finished grade around the residence is elevation 10.0 or greater, then the Building Height would be less than 30 feet, which is the maximum allowed by the Regulations. As noted on the plans, the finished first floor of the proposed residence is at elevation 15.0.
15. The site is within the Coastal Boundary established within 1000 feet of mean high water of Long Island Sound and its tidal influenced waters. The proposed work will not have any adverse impacts on coastal resources.
16. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
17. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
18. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.

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19. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
20. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
21. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #300, Flood Damage Prevention Application #341 and Land Filling and Regrading Application #329 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the following plans, as required to be revised herein, entitled:
  - Mitigation Planting Plan, NWL, LLC, 145 Nearwater Lane, by Environmental Land Solutions, LLC, dated April 22, 2014, Drawing No. MP.1.
  - Existing Conditions With Invasive Plant and Tree Removal, NWL, LLC, 145 Nearwater Lane, by Environmental Land Solutions, LLC, dated April 22, 2014, Drawing No. EX.1.
  - Site Development Plan 145 Nearwater Lane, by McChord Engineering Associates, Inc., last revised 4-23-14, Drawing No. SE1.
  - Site Development Plan 145 Nearwater Lane, by McChord Engineering Associates, Inc., last revised 4-23-14, Drawing No. DT1.
  - Lokhin Residence, 145 Nearwater Lane, by PH Architects, dated 04.16.14, Sheet No. A1.1, A1.2 (last revised 05.14.14), Proposed Elevations A2.1 (last revised 05.14.14), Proposed Elevations A2.2 (last revised 05.14.14), Proposed Elevations A2.3 (last revised 05.14.14).
- B. A basement is not allowed in the flood zone. The plans must be revised and coordinated so that the area below the first floor is one of the following:
  - 1) a crawl space where the slab is lower than the all of the surrounding ground and the height between the lowest portion of the crawl space slab and the top of the first floor does not exceed 5 feet and the crawl space walls have sufficient food venting to comply with the FEMA requirements; or
  - 2) an enclosed area below flood level with at least portions of two sidewalls below flood level (elevation 14) and the sufficient flood venting to comply with the FEMA requirements; or
  - 3) a basement of a structure that is not within the flood zone, but in order to accomplish this, the grade around the entire structure must be raised to be above elevation 14 (preferably 14.5) by creating a retaining wall on the north and east sides of the proposed structure and making other minor site grading modifications.In any case, the crawl space or enclosed area below flood level or basement shall be for storage only and shall not contain any finished space or utilities. Revised plans to effectuate this stipulation shall be submitted to the Director of Planning for review and action. All mechanical units shall be at or above elevation 14.0

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- C. Accompanying the Zoning and Building Permit applications and prior to commencing construction of the foundation, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the foundation complies with the applicable Flood Damage Prevention and FEMA requirements.
- D. Because of the nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived. The house will be constructed on the proposed fill platform created by the filling in of the man-made pond. The Commission hereby allows filling and regrading as shown specifically on the approved plans in Condition A, above, and determines that based on the elimination of the pond, the existing average grade level is elevation 9, which takes into account the approved filling of the pond. In order to establish the new grades, the applicant shall establish a fill platform which will result in the average grade around the proposed residence being greater than 10. In accordance with the Zoning Regulations, the Building Height shall be measured from elevation 10.0 (elevation 9.0 plus a maximum of one foot). Zoning and Building Permits for the foundation only for the proposed residence shall be issued upon proper application. Once the foundation has been installed and the regrading around the foundation has been accomplished, an as-built survey illustrating the location and elevation of the foundation and the regrading around the foundation shall be submitted to verify that no part of the house or new foundation are within the flood hazard zone. Only then can the Zoning and Building Permits be obtained for the house above the foundation level. The applicant is responsible for obtaining the Letter of Map Revision (LOMR) or similar approval from FEMA. The applicant shall provide a copy of this approval to the Commission for the file prior to the use of, or request for the issuance of a Certificate of Occupancy for the proposed residence.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the SE1 and DT1 plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. It is noted that the Zoning Board of Appeals (ZBA) granted a variance. However, that variance will become moot, as this approval will allow the applicant to fill in the man-made pond and perform other grading of the property as allowed within the Land Filling and Regrading Application as part of this application. The applicant is then permitted to construct the proposed residence on the subject property. Because of the nature of the filling and regrading request as well as the fact that the property is in the flood zone, the house approved herein must be built at exactly the elevations shown, and be no taller than the plans submitted to the Commission.
- G. As part of the submittal for the Zoning and Building Permits (one for the residence and one for the pool), the applicant shall submit final calculations on proposed building height as measured from the grades permitted herein, and specifically note the distances of the proposed residence and pool from the setbacks.



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- H. Stormwater management consists of a proposed rain garden and other stormwater management. The rain garden shall be created/installed as shown on Drawings SE1 and DT1.
- I. As part of the record in this matter, a Stormwater Facilities Maintenance Plan dated 4/23/14 was prepared by a professional engineer from McChord Engineering Associates. The Stormwater Facilities Maintenance Plan requires the property owner and all subsequent property owners of 145 Nearwater Lane to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning or Building Permit for the new residence.
- J. The property owner shall have the continuing obligation to make sure that stormwater runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- K. Prior to the issuance of a Certificate of Occupancy (CO) for the residence, the applicant's engineer or surveyor shall prepare an as-built survey of the topography on the property, showing one foot contours and sufficient spot elevations to verify that the finished grading is in compliance with this approval. A Professional Engineer shall submit certification that the required stormwater management (including rain garden) and site grading has been properly implemented per the approved plans prior to the issuance of a Certificate of Occupancy of the residence.
- L. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. The demolition of the existing residence will require approval from the Building Department, and construction of the new residence and pool will each require Zoning and Building Permits. A Sewer Connection Permit from Sewer Services will be needed for the new residence. State of CT DEEP permits may be needed for some of the work to eliminate the wetlands that are adjacent to the man-made pond. A permit may be also be needed from DEEP if the homeowner wants to remove all of the phragmites, which is an invasive species. All utilities serving the proposed residence shall be underground.
- M. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- N. This permit shall be subject to the provisions of Sections 815, 829f, and 1009 of the Darien Zoning Regulations, including but not limited to, submission of certification and an as-built survey for the land filling and regrading aspects of the project, as prepared by a licensed land surveyor, and it shall show the final finished grades with one foot contours and sufficient spot elevations to verify that the finished grading is in compliance with this permit. Implementation

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and completion of the approved plans for site work and regrading shall be within two years of this action (by September 2, 2016). This may be extended as per Sections 815, 829f, and 1009.

All provisions and details of the plans, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Chairman Cameron read the following agenda item:

**Business Site Plan #288/Special Permit, Standard Realty, LLC/Valero, 1927 Boston Post Road.** Proposing to install a 20' x 26' canopy over new fuel dispensers to be installed, and to perform related site development activities.

Commission members discussed the proposed Stipulation D which concerns the possible replacement of the sidewalk. It was clear from the discussion that the Commission would not reach a consensus at the meeting and it was decided to wait and discuss this matter at the meeting scheduled for September 7<sup>th</sup>. No action on this matter was taken.

Chairman Cameron read the following agenda item:

**Coastal Site Plan Review #301, Flood Damage Prevention Application #343, Land Filling & Regrading Application #332, David & Tina Madon, 15 Shennamere Road.** Proposal to construct additions and alterations to the existing residence; and perform related site development activities within regulated areas.

Commission members discussed the draft Resolution and made several minor modifications and clarifications. The following motion was then made: that the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion as made by Mr. Voigt, seconded by Mr. Sini and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 2, 2014**

Application Number: Coastal Site Plan Review #301  
Flood Damage Prevention Application #343  
Land Filling & Regrading Application #332

Street Addresses: 15 Shennamere Road  
Map #68 as Lot #10

Name and Address of: David & Albertine Madon  
Property Owner: 15 Shennamere Road

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Darien, CT 06820

Name and Address of Applicant &: Wilder G. Gleason, Esq.  
Applicant's Representative: Gleason & Associates, LLC  
455 Boston Post Road, Suite 201  
Darien, CT 06820

Activity Being Applied For: Proposal to construct additions and alterations to the existing residence; and perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Shennamere Road approximately 700 feet south of its intersection with Contentment Island Road.

Zone: R-1

Date of Public Hearing: July 29, 2014 continued to August 4, 2014

Time and Place: 8:00 P.M. Room 206 (July 29) and Auditorium (August 4) Town Hall

Publication of Hearing Notices

Dates: July 18 & 25, 2014

Newspaper: Darien News

Date of Action: September 2, 2014

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:  
September 12, 2014

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The applicant proposes to construct additions and alterations to the existing residence; and perform related site development activities within regulated areas. The proposed work includes a chimney addition; new trellis; new one-story kitchen addition; and new turret.
2. The Zoning Board of Appeals (ZBA) granted a variance for this project on July 16, 2014 as part of ZBA Calendar #30-2014. That approval is hereby incorporated by reference. The

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Environmental Protection Commission (EPC) granted an approval for this project on July 9, 2014 as part of EPC #18-2014. That approval is also incorporated by reference.

3. Part of the work is a cantilevered bumpout of the living space and part of the work is a fireplace and a trellis over a patio on the north side of the house facing the pond. The recently updated Flood Hazard Maps have changed the expected flood height in the area. The house was constructed in the early 1960s and is below the new expected Base Flood Elevation of 14. Part of the house is at Elevation 12.5 and another part is at Elevation 13.3.
4. At the public hearing, the applicant's representative Attorney Gleason submitted a list of non-compliant issues, some of which will be remedied by the proposed construction. For example, a portion of the house at Elevation 9 will be raised up and the utilities will be raised up above the expected flood level. It was noted that any future replacement of the air conditioning units will be raised, but the existing units can stay in place for the moment and until they are replaced.
5. The site is within the Coastal Boundary established within 1000 feet of Mean High Water of Long Island Sound and its tidal influenced waters. The proposed work will not have any adverse impacts on coastal resources.
6. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
8. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties and, therefore, this proposal is consistent with the need to minimize flood damage.
9. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
10. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
11. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #301, Flood Damage Prevention Application #343, and Land Filling & Regrading Application #332 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the following plans entitled:

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- Additions/Renovations at 15 Shennamere Road, prepared by Pagliaro Bartels Sajda Architects, June 18, 2014, Sheets A0, A1, A2, A3, A4.
  - Schematic Design, David & Albertine Madon Residence, 15 Shennamere Road, by Artemis landscape architects, inc., dated 4/28/14, Sheet L-1.
- B. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- C. Due to its specific location within the watershed and the nature of the proposed work, the Commission hereby waives the requirement for stormwater management.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. During the public hearing, the applicant stated that any future replacement of the heatpump/air handler and the HVAC compressors will be installed in conformance with all applicable setback and flood regulations, but requested that the existing units can stay in place for the moment and until they are replaced. The Commission hereby requires that as part of this approval. This condition is also a condition of approval in ZBA Calendar #30-2014 of July 16, 2014.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815, 829f, and 1009 of the Darien Zoning Regulations, including but not limited to, submission of certification and an as-built survey as prepared by a licensed land surveyor. Implementation and completion of the approved plans for site work, and regrading shall be within one year of this action (by September 2, 2015). This may be extended as per Sections 815, 829f, and 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Chairman Cameron read the following agenda item:

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**Discussion and deliberation only on the following:**

**Proposed Amendment to Darien Zoning Regulations put forth by Penelope Glassmeyer.**

Proposing to amend the Darien Zoning Regulations by establishing an overlay zone that would apply to larger sites in the R-1 Residence Zone served by public water supply and sanitary sewer. It would allow multi-family age-restricted developments by Special Permit in the R-1 Zone, if the overlay zone is placed upon a property.

Commission members discussed whether the proposed Amendment should apply to all properties within the R-1 Zone or only those which are close to the Central Business District or other commercial areas or close to or adjacent to the residential one-half acre zone. It was agreed that the proposed developments need to be consistent with the surrounding neighborhood and that each surrounding neighborhood will be different.

Mr. Sini said that he is in favor of creating a special, age restricted housing provision within the Regulations and wondered why the specific numbers had been proposed. He said that adopting a minor modification of the Regulations for a limited area would be better than adopting a broad modification (it is better to walk before we run).

Mr. Voigt questioned whether the housing for the elderly should be concentrated into a few areas or if it should be spread out and only allowed on over-sized parcels of land within an R-1 Zone.

Mr. Ginsberg said that if the Commission is inclined to approve the Amendment of the Regulations, it is necessary for clarification about the density bonuses and which can apply and should apply. It is also necessary to clarify how many housing units could be developed on any site and if the affordable housing units could be built off-site. He noted that constructing 4 dwelling units does not trigger the inclusionary zoning provision of Section 580.

Mr. Sini said that such clarifications would be necessary and that the development would only be entitled to one incentive to increase density, not a compounding of the units based on elderly and affordable units.

Mr. Olvany suggested that one clarification would be to change the calculation from being two units per acre to being one unit per half acre. Mr. Ginsberg noted that the units proposed in such developments have a maximum size and questioned whether the Commission would want the attic or the basement finished or unfinished areas to count toward that calculation. Mrs. Cameron said that this type of amendment is not about urban renewal. It is for providing a style of housing option for those people who are 62 years of age and older.

Mr. Olvany said that it might be more appropriate to get a larger number of units, but to have each of those units be smaller in their total floor area. Such modification would require a new public hearing.

No decision was made regarding the pending amendment of the Regulations. It will be placed on the agenda for discussion at the next available meeting.

Chairman Cameron then read the following agenda:

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**Approval of Minutes**

*July 29, 2014 Public Hearing*

They were approved by Susan Cameron because no other Commission members were present at that meeting.

*July 31, 2014 Special Meeting/Public Hearing/General Meeting*

Several changes and clarifications were discussed and agreed upon. The motion to approve was made by Mr. Voigt, seconded by Mr. Olvany. All voted in favor except Mr. Sini who had not been able to attend that meeting.

*August 4, 2014 Special Meeting/Public Hearing/General Meeting*

Several modifications were discussed and agreed upon. The motion to approve was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

There being no further business, the following motion was made: that the Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved. The meeting was adjourned at 9:33 P.M.

Respectfully submitted,

David J. Keating  
Planning & Zoning Assistant Director

09.02.2014min